

FINANCE & ADMINISTRATION COMMITTEE 16 MARCH 2011	2
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REQUEST TO USE PORTION OF ESPLANADE CAR PARK ADJACENT TO CAIRNS BASE HOSPITAL EMERGENCY HELIPAD – LOT 711 ON NR7289 – DIVISION 5

K Richardson : 19/3/3-95: #3058276

RECOMMENDATION:

That Council advises the applicant that it does not consent to the location of a project office complex within the Esplanade Car Park adjacent to the Emergency Helipad, Lot 711 on NR7289, The Esplanade, Cairns.

INTRODUCTION:

The appointed Managing Contractor for the completion of the Cairns Base Hospital Redevelopment (the applicant), has requested Council allow it to locate a project office complex on the portion of the Esplanade Car Park adjacent to the emergency helipad that is currently closed to the public.

BACKGROUND:

Lot 711 on NR7289 is a Reserve for Park and Recreation purposes held by Council as trustee. As such, its use is governed by a Land Management Plan which has been prepared by Council officers and approved by a delegate of the Minister administering the *Land Act 1994*.

In June 2009, in conjunction with Queensland Health, Council agreed to temporarily close 30 off street parking bays of the Esplanade car park (i.e. located within the reserve area) in front of the Cairns Base Hospital. This was due to safety concerns raised by Emergency Management Queensland helicopter pilots in relation to strong air turbulence generated from helicopter blades during approach to the landing zone.

It is this section of the car park that is the subject of this report.

The Cairns Base Hospital (CBH) is in the process of extensive redevelopment and refurbishment. A construction firm (the applicant) has been appointed by the Queensland Government to complete the construction of the new Block D and the refurbishment of blocks A, B, C and the Mental Health Unit. They have requested Council's approval to install temporary transportable offices and meeting rooms within this temporarily closed off street parking area. It is proposed that one 33m x 12m and one 12m x 7m single story transportable buildings and a transportable toilet block be installed. Council officers have been advised that the applicant requires approx 360m²

of office space to contain up to 30 staff, meeting rooms with capacity to hold up to 30 people, and associated toilet facilities. In addition to this, a further facility of approx 72m² is required to accommodate six staff and a meeting room for up to 12 people. The buildings would be linked by covered walkways and the perimeter of the temporary facilities, which will also include exclusive car parking for 12 vehicles, would be fenced with 2.4m solid hoarding fencing, with vehicular access from the existing car park.

The applicant also proposes that power, water, communications and a sewer rising main be provided from the adjacent construction site via underground conduits bored under the Esplanade. Sewer and grey waste would be pumped via a rising main into the sewer system of the existing hospital.

COMMENT:

Inner City Facilities

The closure of this section of car park was enacted to allow safe operation of emergency helicopter landing until an appropriate alternative could be found. Queensland Health (QH) has been working towards a permanent solution for emergency helicopter patient transfers since June 2009. This process has taken longer than anticipated, but QH have advised that they are actively working to ensure a permanent, safe and sustainable outcome is achieved as quickly as possible.

To date the offshore platform has been seen as the preferred option. QH has advised that design of the offshore platform is well advanced, with an identical platform having been commissioned on Thursday Island in December 2010. A briefing report on progress to date will shortly be supplied to Council by QH.

QH have stated that they intend to construct the replacement helipad as soon as possible following approval. Should Council allow the use of the car park by the construction firm, there is a possibility that the helipad safety space may cease to be an issue before the overall works being managed from the planned construction site are completed. If this occurred then from that time Council would be allowing them to use the car parking space as a work site rather than it be re-opened as car parking for use by the public when visiting the Esplanade reserve.

It has also been noted that should the offshore option be approved, construction may potentially require use of this area, such as for heavy vehicle access around the current helipad during the works, materials handling or otherwise. If the unused car park area is made available to the construction firm for up to two years, this option would not be available. Potential impact to other areas of the car park or to other areas of Esplanade parklands may therefore be much greater should the construction site be approved.

It is also noted that previous agreement with Qld Health for "temporary" use of the Esplanade Reserve resulted in the current permanent car park. This precedent raises concern that any other approved "temporary" use may have a similar "permanent" result.

Inner City facilities recommend Council allow priority firstly to the emergency helipad requirements, and once the current issues are resolved, to re-opening the car park to general public use. There are a range of potential areas suitable for location of temporary facilities within reasonable distance to the base hospital, and it would be more appropriate that these be utilised.

Development Assessment

Development Assessment does not support the proposed construction of a Project Office within the Esplanade Car Park adjacent to the Emergency Helipad, Lot 711 on NR7289, The Esplanade, Cairns. The proposed use is defined as a Business Facility (Office). A Business Facility (Office) is an Impact Inconsistent Use on this site as the site is located within the Open Space Planning Area. It is noted that the proposal is unlikely to comply with the Purpose of the Open Space Planning Area. The Shopping and Business Facilities Code also requires a certain level of visual amenity and architectural design which is unlikely to be satisfied by a "demountable" type of structure. The provision of sufficient car parking would also be an issue as the Parking Rate would be 1 per 25 m² (rate for parking outside City Centre Planning Area). Should 432 m² of Office space be proposed, a total of 18 car parking spaces would be required.

It should be noted that the proposed temporary project office may be considered as a component of the Development Application for the hospital expansion. Ministerial Designation has been received for the hospital expansion and as such the proposal could potentially be considered as ancillary to the development. If the proposal is considered ancillary to the development, the Assessment Manager will be the State and not Council. However, in this circumstance, Development Assessment is of the opinion that there are sufficient grounds to warrant a Material Change of Use Application considered against the Planning Scheme due to the size (more than 400m²) of the proposal which will impact significantly the area and may be inconsistent with the Helipad use nearby.

Property Services

Under the provisions of the *Land Act 1994*, the subject land has been set aside as a community purpose reserve, i.e. a Reserve for Park and Recreation purposes, with Council appointed as trustee to manage the land for the benefit of the community. In terms of the Department of Environment and Resource Management's policy for secondary use of Trust land, secondary use may be authorised by the Trustee as long as the intended secondary use is consistent with the reserve purpose and the public interest in the land is not jeopardised.

A Land Management Plan (Cairns Esplanade North Parklands Secondary Use Management Plan) has been prepared and outlines how Council as Trustee will govern and manage the use of the subject land. The Land Management Plan was only approved by a delegate of the Minister administering the *Land Act 1994* following community consultation.

The proposal to use part of the reserve for a project office complex is inconsistent with the reserve purpose and is inconsistent with the objects of the approved Land Management Plan.

The proposed construction of the project offices and works associated with providing services to the site suggest an element of permanency and commercial usage and should this proposal be approved, land tenure would need to be addressed accordingly.

The only two options for tenure for this proposal are by way of a trustee lease or trustee permit.

Any **trustee lease** would need the approval of the State (DERM). Council, as Trustee of the Reserve, should ensure any tenure is consistent with, and does not diminish, the reserve purpose before seeking this approval. Should a trustee lease be approved by the State, amendments to the Land Management Plan will be required and Public Consultation may again be necessary. This can be a lengthy process which could delay installation of the project office. There may be community and local land owners objection to this proposal and at this stage it is unknown if DERM would consent.

A **trustee permit** can be issued for up to three (3) years, without seeking approval from the State. Due to the uncertainty around the permanency of the construction, Property Services do not recommend this approach.

Further, in terms of Section 176 of the *Local Government (Finance, Plans and Reporting) Regulation 2010*, a local government cannot enter into a contract (in this case, a lease or permit) over a valuable non-current asset (land) without completing a tender process. As this is a situation where the applicant is the soul entity who could benefit from tenure over this site, Council would need to seek Ministerial exemption in terms of Section 185(1)(e) of the *Local Government (Finance, Plans and Reporting) Regulation 2010* from complying with Section 176 of the Act.

CONSIDERATIONS:

Corporate and Operational Plans:

This report was prepared in accordance with Corporate Plan Goal 6 – Striving for Organisational Excellence.

Statutory:

Management of the Esplanade reserve and any associated tenures is conducted in terms of the *Land Act 1994*. Disposal of land and seeking exemption from the tendering process is conducted in terms of the *Local Government (Finance, Plans and Reporting) Regulation 2010*.

Policy:

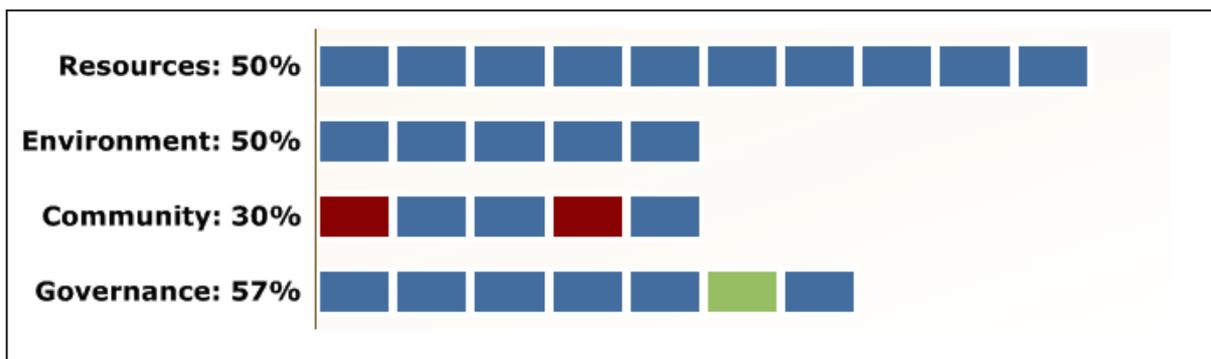
N/A

Financial and Risk:

There are no financial implications for Council should the proposal not proceed. If the proposal was approved by Council, there is a risk of a temporary structure and associated connected services becoming a permanent fixture on the Esplanade. This would need to be addressed in specific lease/trustee permit clauses and it is envisaged that a more non-standard lease will therefore be required and costs associated with establishing tenure, rectification of the site etc. must be borne by the applicant. Should tenure be granted over the subject site then lease rental, rates and charges would be payable by the applicant. As the applicant would be offered a commercial lease/permit, then commercial lease rental assessed on the Unimproved Capital Value of the site would be applied. Given the location is considered to be prime real estate, potential lease rental would be calculated accordingly. Not proceeding with the request for tenure would see Council forgoing potential rental income from the site. In light of the concerns raised in the comments section of the report, the retention of the Reserve for its dedicated purpose in order to protect the amenity and security of public access substantially mitigates this loss.

Sustainability:

The Cairns Regional Council Sustainability Assessment has been completed in relation to the proposed use of the land in terms of tenure. In undertaking this analysis, officers answer a series of questions based on the four sustainability principles. The table shows how many of the questions generated a positive rating (green), a neutral or not applicable rating (blue) or a negative rating (red) to each question.



Allowing use of the subject land as proposed will have a mainly neutral effect on Council's sustainability however it has some negative effects in relation to the reduction of public open space and amenity.

CONSULTATION:

As per the comments section of this report.

OPTIONS:

1. That Council advises the applicant that it does not consent to the location of a project office complex within the Esplanade Car Park adjacent to the Emergency Helipad, Lot 711 on NR7289, The Esplanade, Cairns.

2. That Council approves the location of a Project Office at the Car Park adjacent to the Emergency Helipad, Lot 711 on NR7289, The Esplanade Cairns, subject but not limited to the following:

- use of the site to be formalised by way of a Trustee Lease or Trustee Permit, with terms and conditions to be negotiated
- Ministerial exemption being sought and obtained from the tendering provisions in accordance with Section 185(1)(e) of the *Local Government (Finance, Plans and Reporting) Regulation 2010*.
- all costs and approvals associated with locating a Project Office on the site to be the responsibility of the applicant
- 'in-principle' approval being obtained from the Minister for Environment and Resource Management

Furthermore, Council delegate authority to the Mayor and Chief Executive Officer in accordance with section 257 of the *Local Government Act 2009* to:

- negotiate, determine and approve any and all matters, including execution associated with and the proposed trustee lease;
- amending and approving any and all matters, including public consultation (if required) outcomes associated with the land management plan; and
- negotiate, determine and approve any and all matters, including execution associated with any required trustee permit.

CONCLUSION:

That Council concur with the recommendation of this report.

ATTACHMENTS:

Aerial photo
Proposed layout

L Giacomini
Team Leader, Property and Administration

L Kirchner
Manager Governance

S Philpott
General Manager Corporate Services

Aerial Locality Map



